

THURSDAY, 19 OCTOBER 2017

REPORT OF THE PORTFOLIO HOLDER FOR ASSETS AND FINANCE

STAFFORDSHIRE PILOT FOR 100% BUSINESS RATES RETENTION IN 2018/19

PURPOSE

- 1.1 To provide Cabinet with details of the potential for the Council to participate in a Business Rates Pilot in 2018/19.
- 1.2 To outline the Business Case and relevant risks and rewards from pilot arrangements.
- 1.3 To update Members on the implications to existing pooling, and membership of Local Enterprise Partnerships, resulting from membership of a pilot.
- 1.4 To present the draft governance arrangements (Memorandum of Understanding) for the new pool.
- 1.5 To note the “No Detriment” requirements of the pilot application.

RECOMMENDATIONS

Cabinet are recommended to:

- 2.1 Approve participation in the Expression of Interest to form a Staffordshire and Stoke on Trent Pool based upon piloting the 100% Business Rates Scheme based upon all eleven Authorities covering the full Staffordshire Geography;**
- 2.2 Subject to 2.1 above, to**
 - a) Notify the GBSLEP pool of the Council’s intention to be part of a pilot application and if successful leave that pool;**
 - b) in the event of the pilot application not being successful, continue membership of the GBSLEP pool;**
 - c) in the event of the pilot application being successful, continue to support a GBSLEP ‘virtual’ pool through a voluntary contribution; and**
 - d) in the event of the pilot application not being successful and the GBSLEP pool being dissolved, take appropriate action to join the Stoke-on-Trent and Staffordshire Pool.**
- 2.3 Subject to above authorise the Chief Operating Officer and Section 151 Officer in consultation with the Leader and Portfolio Holder to submit a firm Expression of Interest to be a member of one of the above pools.**

EXECUTIVE SUMMARY

- 3.1 The Department for Communities and Local Government (DCLG) published on 1 September 2017 an “Invitation to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier split models”.
- 3.2 The prospectus provides a framework for the extension of the existing voluntary pooling of business rates revenues to Two Tier Authorities, following the establishment of pilots for Devolution areas only in 2017/18.
- 3.3 A pilot enables 100% of future growth to be retained by the pilot area as compared to the current 50% subject to Fiscal Neutrality. Tariffs or Top Ups are adjusted to reflect the 100% share and the relevant government grants consolidated within the Business Rates Regime.
- 3.4 “Fiscal Neutrality” is based upon the initial (notional) baselines created at the commencement of the 50% scheme in 2013/14. There is a clear and simple financial advantage therefore if the combined current amount of Actual Business Rates Income (ABR) is in excess of the Government determined Business Rates Baseline as contained within the 50% scheme.
- 3.5 All Staffordshire Authorities are in a “growth position” with growth ranging from 1% to 14% with an average of 7% being achieved across the wider Staffordshire proposed pool for 2017/18. This net growth position is at least likely to be maintained for 2018/19 but more likely to increase. Growth within the two tier (County Council) area is estimated to be £13.7million whereas Stoke on Trent City Council is forecast to be £11m (£24.7m in total). At present only 50% of such growth is retained within Staffordshire and hence an additional £12.35million can be retained under pilot arrangements.
- 3.6 The creation of a pilot would see each Authority receive a minimum of £200k additional resources in 2018/19. The actual direct benefit is based upon proposed locally agreed tier splits.

The Tier splits for Districts/boroughs have been maintained at 40% with this Council forecast to receive in the region of £400k in 2018/19.

The Tier split for the Upper Tier Authorities has been increased from 9% to 59% with Staffordshire County Council forecast to receive in the region of £3.7million in 2018/19.

The Tier split for the Unitary Authority in Staffordshire has been increased from 49% to 99% with Stoke on Trent forecast to receive in the region of £5.6million in 2018/19.

The Tier split for the Fire and Rescue Service has been maintained at 1% with additional resources of £125k forecast in 2018/19.

- 3.7 Pilots have been designated for one year only however it is more than likely that pilots will remain in operation until the full 100% Business Rates Scheme is implemented.
- 3.8 In accordance for the selection criteria for a new pilot there are three potential models for Staffordshire Authorities:
- a) Existing Staffordshire & Stoke on Trent Pool;
 - b) Two Tier Only – County Council & Districts ;or
 - c) All eleven authorities covering the full Staffordshire Geography;

and ultimately the model selected will be dependent upon the respective decision of each Authority. However it is considered that only c) All eleven authorities covering the full Staffordshire Geography would fully meet the prospectus criteria.

- 3.9 The terms of the new pilots may be slightly different from the 2017/18 pilots with Government yet to determine whether the “no detriment” clause will still apply. This clause ensures that collectively the Authorities in the pilot are no worse off than if they remained in the 50% scheme. Prospective Pilots have been asked to indicate if they would wish to proceed with a pilot if this clause is not in place.
- 3.10 The “No Detriment Policy” was felt essential by initial pilots to mitigate the impact of volatility in relation to the transfer of existing funding streams and additional responsibilities into the Business Rates funding regime. This in itself has been mitigated by only Revenue Support Grant and Rural Services grant being foregone under the 2018/19 arrangements.
- 3.11 In order for a “ No Detriment “ clause to be triggered, in relation to not being worse off as compared to the current 50% scheme for the Staffordshire wide pilot, there would need to be a loss of Business Rates income of in excess of 7% (£12 million) in 2018/19.
- 3.12 Nevertheless the greatest risk in relation to net Business Rates Income is the impact of Appeals following the 2017 revaluation, and future changes in Government Policy. It is therefore proposed that the Expression of Interest is caveated with a No Detriment Clause for :
- The consolidation of hereditaments as a single assessment e.g. Virgin Media;
 - Transfer from the Local Rating List/Central Rating Lists;
 - Changes in Mandatory Relief Policy / outstanding claims for Charitable Status;
 - Changes in the methodology of determining the basis of Rateable Values e.g. GP Surgeries;
 - Change in Government/Valuation Office agency (VOA) policy; and
 - The backdated cost of new appeals post 1 April 2018.

3.13 The pool itself will operate a “No Detriment / loss” policy funded as first call against additional growth retained in Staffordshire.

“No loss” is determined to be that a Member will be no worse off

- by being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool;
- No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business Rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool; and
- No Member will be worse off as a result of the increased retained % arising from Tier Splits of the Pilot Scheme.

3.14 Membership of the pilot would not affect the sovereignty of each Authority. Each authority would still receive separate allocations from Government; would set its own budget and collect and retain Business Rates.

3.15 To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income. However, Authorities cannot be members of two pools.

3.16 Authorities will therefore need to determine whether they would wish to be part of a Pilot or not in accordance with the three models as outlined in paragraph 3.8.

3.17 If the pilot application was successful there would be a requirement to leave the current pools. Two pooling arrangements exist in Staffordshire. Cannock Chase; East Staffs; Lichfield and Tamworth are members of the Greater Birmingham and Solihull Pool (GBSP), and Newcastle Under Lyme; South Staffs; Stafford; Staffordshire Moorlands; Stoke on Trent; Staffordshire Fire and Rescue and Staffordshire County Council are members of the Staffordshire and Stoke on Trent Business Rates Pool (S&SOTP).

3.18 Given the timetable for pilot applications and the proximity to the finalisation of the local government finance settlement, all applications must outline, with agreement from all participating Authorities, what pooling arrangements they would like to see if their application to become a pilot were unsuccessful.

3.19 The rationale of the existing pools, in addition to sharing the risk and reward, is to provide a local incentive so that a proportion of additional resources is retained by the generating authority and to provide a mechanism to support economic growth at a Local Enterprise Partnership or at a Pool area level.

3.20 The adoption of the proposed “no loss” basis as compared to the 50% scheme, will maintain the status quo at a financial level. The current levy passed to the pool would be retained by each Authority at the outset. The contribution to the Economic Developments partnerships i.e. LEP’S can be maintained either by:

- Re-designation of the existing pools as Economic Development Growth Pools to be funded by the equivalent amount of levy as now (virtual pool);
- Direct contributions to the relevant LEP based upon:
 - a) 40% of retained levy (Current pool arrangements);
 - b) Fixed contribution;
 - c) Lump sum / % contribution; or
 - d) Determining alternative arrangements with the relevant Pool/LEP.

3.21 Informal discussions have taken place with the existing Pools and LEPs and the potential creation of a pilot is not considered a barrier to current membership / working relationships. DCLG have confirmed that the GBS pool will remain open to current members in the event that the pilot application is unsuccessful.

3.22 Expressions of Interest (EOI) are required by the 27 October 2017 and subject to determination of whether the Council wishes to proceed with an EOI delegated authority to the **Chief Operating Officer** and **Section 151 Officer** is required to meet this tight deadline.

3.23 **Appendix D** details the draft Governance Arrangements for the proposed pilot/pool and delegated authority is required to agree the final pooling Agreement in accordance with the principles as contained in the Memorandum of Understanding.

3.24 Successful pilots will be announced as part of the Draft Local Government Settlement in late November / early December and will come into effect from 1 April 2018.

OPTIONS CONSIDERED

As outlined within the report.

RESOURCE IMPLICATIONS

The financial implications of a Business Rates Pilot have been discussed within the report.

In accordance with the locally agreed “No Detriment” Clause the Council will not only receive the same level of resources as determined by the current 50% Business Rates Retention Regime but also additional resources of c.£400k are envisaged for 2018/19 reflecting this Council’s share of the previous 50% growth passed to Central Government. It is proposed that this additional resource is initially treated as windfall income until decisions are made whether the pilot scheme is extended.

LEGAL/RISK IMPLICATIONS BACKGROUND

The Risk Management Implications of pooling arrangements for the proposed pilot have been referred to throughout the report but can be summarised as follows.

The pooling of Business Rates under pilot arrangements enables a greater proportion of Business Rates to be retained by Authorities by retaining the Government's share of growth achieved within the pooled area. An equivalent risk exists whereby the Council would be responsible for the Government's share if business rates contracted below the current level..

There are a large number of risks that already exist in relation to Business Rates Retention however the greatest risk is in relation to the level of appeals.

The Expression of Interest therefore includes a caveat that the Staffordshire Pilot requires a " No Detriment " clause in relation to changes in Policy/ the basis of determining Rateable Values and successful backdated appeals received after 1 April 2019.

SUSTAINABILITY IMPLICATIONS

It is very unlikely that the government, having set up such an arrangement, will unravel the governance arrangements after only one year. The Government's commitment to give local authorities greater control over the money they raise locally suggests that pilots will probably exist until the full 100% Business Rates Retention system is implemented. The very earliest this could be introduced is 2020/21 and more likely 2021/22. Hence any pilot will have minimum 1 year duration but more likely 2 to 3.

BACKGROUND INFORMATION

4. Background

- 4.1 The 50% Business Rates Retention Scheme was introduced with effect from April 2013 and was effectively a 50/50 risk and reward sharing arrangement between Central and Local Government. The scheme enabled each authority to retain its tier share of growth although such growth, for Tariff Authorities, was potentially subject to a 50% cap or levy.
- 4.2 All Staffordshire Authorities have avoided the levy payment by the joining of a Business Rates Pool. Cannock Chase; East Staffs; Lichfield and Tamworth are members of the Greater Birmingham and Solihull Pool (GBSP) with Newcastle Under Lyme; South Staffs; Stafford; Staffordshire Moorlands; Stoke on Trent; Staffordshire Fire and Rescue and Staffordshire County Council being members of the Staffordshire and Stoke on Trent Business Rates Pool (S&SOTP).

- 4.3 The pooling arrangements avoid the levy enabling a) additional resources to be retained by each Authority; b) resources to be allocated across the pool for growth projects and c) provide a contingency to make safety net payments. A pool is subject to Government Safety Net protection at 92.5% at an overall pool level rather than individual Authority.
- 4.4 The previous Government had announced in 2015 that it wished to progress to a 100% retention scheme whereby in exchange for additional responsibilities authorities would be able to retain 100% of the growth they generated. Tariffs and Top ups would still apply to ensure the scheme was cost neutral.
- 4.5 On 1st April 2017 the Government launched six pilots of 100% business rates retention to areas with ratified devolution deals. These pilots now retain 100% of business rates income and forego some existing grants. Over the pilot period they will retain all of their growth in business rates income
- 4.6 In response to the Consultation on Self Sufficient Local Government, the Government made a commitment to launch a further pilot scheme in 2018/19.

A pilot prospectus (see Appendix A) was issued on the 1 September 2017 entitled "Invitation to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier split models".

Existing Business Rate Pilots

- 4.7 Six Pilots have been established as part of the 2017/18 Local Government Finance Settlement for devolution areas as follows - Greater Manchester; Liverpool Region; Greater London Authority; West of England CA (Combined Authority); West Midlands CA and Cornwall.
- 4.8 The pilots effectively test out the new 100% system and at a very basic level increase the amount of other Government Funding that is funded from Business Rates by increasing the % share accordingly.
- 4.9 A number of existing funding streams have been incorporated into the Pilots. All pilots include Revenue Support Grant however other funding streams to be financed via Business Rates vary from pilot to pilot but include the Better Care Fund; Rural Services Grant ; Public Health Grant; TFL investment Grant; Highways Maintenance (Capital);Highways Maintenance (Efficiency); and the Integrated Transport Block.
- 4.10 The pilots are deemed to be cost neutral at the point of delivery and have no impact on the funding available for other areas.

Cost Neutrality has been achieved by re-calculating the *baseline funding levels* (BFLs) and *business rates baselines* (BRBs) for each of the participating authorities to reflect:

a) the value of the funding streams that they are foregoing; and

b) the value of their increased share of business rates.

For each Authority, the difference between its new BFL and BRB represents the revised tariff or top-up that it will pay, or receive in 2017-18.

BFLs, BRBs, tariffs and top-ups will be recalculated for each Authority in 2018-19 to reflect changes to grant totals between 2017-18 and 2018-19.

2018/19 Business Rates Pilots

4.11 The terms of the invitation for the 2018/19 pilot as contained in the prospectus are aimed at:

- exploring how rates retention can operate across more than one authority to promote financial sustainability and to support coherent decision-making across functional economic areas;
- deepening the Government's understanding of how different local arrangements work and improving the information that it holds on business rates retention; and
- testing Authorities' administration (e.g. how they tackle avoidance), technical planning for implementation, and looking at system maintenance; how the accounting, data collection and IT system will work.

The Government expects to learn from the pilots' experiences in the design of any national system of business rates retention and hence the opportunity exists for a Staffordshire pilot to influence the final design and ensure the attributes and complexity of Economic Development partnerships are taken into account.

4.12 The prospectus (see **Appendix A**) however contains a number of changes to the agreements made with existing pilots as follows :-

- To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income (paragraph 2.4 of the prospectus). Authorities cannot be members of two pools (paragraph 4.6);
- The 2018/19 pilot programme will last for one year only (Paragraph 7.4);
- No additional responsibilities are indicated within the prospectus with only Revenue Support Grant (RSG) and Rural Services Grant funding streams to be directly funded from Business Rates (paragraph 2.8); and
- The pilots may not be subject to a "No Detriment" policy (paragraph 2.6).

5. Business Case for a Pilot – Evaluation of Risks and Benefits.

Agreement between DCLG and Pilot Area

- 5.1 Existing Pilots are effectively an agreement between an “Area” and DCLG to test the system with the “Area” being potentially able to influence the design of the final system. To this end a Memorandum of Understanding is drafted, agreed and signed by all relevant parties. It is effectively a negotiation of what is to be included; its basis and the protection required. The Agreements to date have varied from pilot to pilot however a template exists to ensure commonality over a number of basic issues.
- 5.2 The 2018/19 Pilots are slightly different in that the prospectus is effectively the Memorandum of Understanding and the submission of an Expression of Interest is effectively signing up to becoming a Pilot (subject to being approved).
- 5.3 The only caveat being that in submitting the Expression of Interest the pool would need to indicate whether it would be willing to become a pilot without the benefit of “No Detriment”.

Duration of Pilot

- 5.4 The 2018/19 pilot programme will last for one year only with the 2017/18 pilots continuing into 2018/19. It is difficult to determine the rationale for a one year pilot, other than a pilot by its nature will have a limited life.
- 5.5 Nevertheless it is very unlikely that the government, having set up such an arrangement, will unravel such governance arrangements after only one year. The Government’s commitment to give local authorities greater control over the money they raise locally suggests that pilots will probably exist until the full 100% Business Rates Retention system is implemented. The very earliest this could be introduced is 2020/21 and more likely 2021/22. Hence any pilot will have minimum 1 year duration but more likely 2 to 3.

Financial Benefit

- 5.6 A pilot scheme is determined to be “Fiscally Neutral” for each party at the commencement of the pilot based upon the initial Government Assessments of Business Rates Baseline (BRL- Amount in theory to be collected) and the Business Rates Funding Level (BFL- Needs Amount). The Baselines and Funding Levels represent the initial 2013/14 allocations.
- 5.7 Business Rate Baselines were not a precise science and winners and losers were created at the outset of the system. A local authority will in addition since 2013/14 have generated economic growth or seen a major industry close

resulting in actual business rate income varying considerably from the Government assessment. This net growth or reduction has then been shared 50/50 between the Government and authorities based upon their tier split.

- 5.8 The Business Rates Pilot “Cost Neutrality” takes no account of this net growth (or loss) in Business Rates income.
- 5.9 A Business Rates Pilot enables a greater share of future Business Rates Growth however more importantly there is a clear and simple financial advantage of the pilot if the current combined Actual Business Rates Income is in excess of the Government Assessment. A pilot now retaining the Government’s 50% share in addition to its current 50% share.
- 5.10 A Steering Group of the Staffordshire Chief Finance Officers Group (SCFOG) has undertaken work in relation to this which confirms that all authorities within Staffordshire, that are responsible for collecting business rates, are in a “growth position” with growth ranging from 1% to 14%, averaging out at 7% for the proposed overall pool for 2017/18 and this is likely to be at least maintained for 2018/19 (At present 50% of such growth is retained within Staffordshire).
- 5.11 The ability to retain “100%“ of growth would represent new money to be retained in Staffordshire rather than paid to the Government. This is currently estimated to be £12.35 million for 2018/19.

No Detriment- Pilot Area

- 5.12 All existing Pilots have been created on a no detriment basis .The “no detriment” provision ensures that collectively the Authorities in the Pilot are no worse-off than if they had remained in the existing 50% scheme. In particular the agreement ensures that if new burdens arise or the assumptions in relation to the funding stream change, then the Pilot Area is protected.
- 5.13 The 2018/19 prospectus however states that proposals for the 2018/19 pilots should include details of how Authorities will work together to manage risk in line with their proposed pooling arrangements in the event that the 2018/19 Pilots Programme does not include a ‘no detriment’ clause. DCLG are not clear at this stage whether this will be applied across the board for 2018/19 or whether applications that do not require such a clause will operate as such regardless of the final policy decision.
- 5.14 In considering the “No Detriment “requirement a key factor is whether the reward of retaining 100% growth outweighs the risk. “No detriment “as applied to existing pilots would only apply if the proceeds from the scheme were less than the 50 % scheme and if the cost of additional responsibilities were greater than the resource required.

- 5.15 Paragraph 5.10 above indicates that Business Rates would need to contract by in excess of £12 million or 7% for this clause to apply .The extent of the requirement for a no detriment clause has further been reduced by the proposed funding streams being limited to Revenue Support Grant and Rural Services Grant and hence the cost pressures from other funding streams has been avoided.
- 5.16 All Authorities currently manage the risk in volatility of business rates by being a member of a Business Rates pool. The respective governance arrangements share the risk and reward on the basis that no Authority will be worse off as compared to not being part of a pool. However at present 50% of the risk/reward is shared with Central Government.
- 5.17 Two key risks exist in relation to pooling without a “No detriment” clause
- a) A major Business closes in the Area; and
 - b) The level of Appeals exceeds Governments expectation/provision made by each Authority.
- 5.18 **Appendix B** provides an analysis of the potential exposure of each Authority to a major business with the biggest single exposure relating to Alton Towers (Staffordshire Moorlands). In this context it should be noted that the Closure of Rugeley Power Station did not trigger any Safety Net requirements with Cannock Chase Council still remaining in a growth position. An impact on the Levy did however arise but this in itself would not have triggered the “No detriment“ Clause.
- 5.19 **Appendix B** also highlights the diverse nature of businesses within Staffordshire and identifies some unique high value hereditaments. In addition to the single exposure and unique high value hereditaments additional exposure will exist in relation to single operators with multiple hereditaments in one authority or across Staffordshire. DCLG have indicated that “a variation in the types of business rates base represented“ forms part of the further assessment criteria for becoming a Pilot.
- 5.20 In the context of closures the 50% scheme has been in operation for four years and only two Safety Net payments have been required for Staffordshire Authorities, the Safety Net payments being triggered by appeals.
- 5.21 The Safety Net provision for a Pilot area increases from its current 92.5% (under the 50%scheme) to 97%. however this still applies at Pool rather than individual Authority level. The current exposure, before the safety net is triggered, for the overall Staffordshire Pool is £13.7 million but this will reduce to £8.0 million under pilot arrangements. However it should be noted that due to actual business rates being 7% above baseline, the pool would need to lose

over £20 million (additional growth above baseline of £12 million and £8m reduction to initiate trigger) before the safety net applied.

- 5.22 The greatest risk in relation to the “No Detriment “clause not being in place is the level of appeals. This is particularly important at this current time due to the close proximity to the 2017 Revaluation. The 50% scheme was introduced 3 years after the 2010 Revaluation and hence the Government had already borne 100% of the cost of appeals agreed before the 50% Scheme came into force. The current position is something different in that there is a backlog of appeals still outstanding and the “authenticity” of current assumptions (the Government has effectively allocated 2.1p of the multiplier to meet the cost of appeals), has yet to be tested.
- 5.23 Regardless of the level of appeals ultimately the greatest risk across the country is whereby there is a change in Policy or treatment of hereditaments. This is particularly borne out by the change in valuation of GP surgeries and appeals in relation to Telecommunications. The latter included the potential consolidation of such assessments in a single assessment. Similar risks therefore exist in relation to the transfer of hereditaments from the Local Rating List to the Central List whereas there are outstanding challenges in relation to whether Hospitals should receive Charitable Status and 80% Mandatory Relief.
- 5.24 It is therefore recommended that although the Pool will accept the risk of volatility due to changes in circumstances and its share of appeals, it is unwilling to become a pilot unless a “No detriment” clause applies for the loss of business rates income due to
- The consolidation of hereditaments as a single assessment;
 - Transfer from the Local Rating List/Central Rating Lists;
 - Changes in Mandatory Relief Policy Charitable Status;
 - Changes in the basis of determining the basis of Rateable Values; and
 - The backdated cost of new appeals post 1 April 2018.
- 5.25 The Government is considering a new approach to the management of the risk of business rates appeals under the full national business rates system. An option therefore maybe be to pilot this on a no detriment basis within Staffordshire. In developing the Expression of Interest it is intended that further dialogue takes place with DCLG in terms of providing options to provide a mechanism that addresses the above risks.
- 5.26 DCLG have confirmed that each Authority would continue to receive specific Section 31 grants in relation to Business Rates e.g. Small Business Rates Relief etc. and that funding re existing or new Enterprise Zones would also be protected.

No Detriment – Individual Authorities

- 5.27 It is important to note that the “no detriment” provision would protect the Pilot, not individual Authorities. Existing pooling arrangements ensure no Authority is worse off being a member of a pool and it is proposed as part of the Governance arrangements for the Staffordshire wide pilot/pool that this is extended that no Authority is worse off as compared with the 50% business rates scheme. At worst, each authority would receive the same level of funding as it would in the existing 50% scheme.

Individual Sovereignty and Funding Allocations Maintained

- 5.28 The amount of core funding for each Authority in any potential pilot will still be separately identified as part of the Local Government Settlement.

Each authority will receive their allocated amount. There is no commitment as part of the pilot to share needs/resources and risk other than under the current 50% scheme. Business rates will still be collected and retained by each authority with only the additional resources arising from the 100% scheme being accounted for on a Staffordshire “Area” basis.

Existing Pooling Arrangements

- 5.29 The introduction of 100% Business Rates/the creation of a Pilot would in theory end the need for pooling arrangements with no Levy being imposed (pools were initially primarily established to avoid a levy being paid to Central Government). The Government’s consultation paper on Business Rates Retention however promoted new pooling arrangements with an incentive of Local Growth Zones; ability to retain growth at a reset; a different level of safety net and different or additional responsibilities.
- 5.30 As stated earlier Staffordshire Authorities have aligned to either the Staffordshire and Stoke on Trent Business Rates Pool or the Greater Birmingham and Solihull Business Rates Pool. The latter includes two Worcestershire Authorities (Redditch and Bromsgrove) as well as Birmingham and Solihull.
- 5.31 The last two mentioned authorities are members of the West Midlands Combined Authority Pool/Pilot. Under the 2017/18 pilot arrangements the Devolution Area pilots are allowed to operate alongside existing business rates pools with no requirement for any pool to be dissolved. However since the rationale and governance arrangements of the pool related to the “non payment of the levy”, not applicable to pilot authorities, separate governance arrangements were put in place to passport the levy saving from the Pilot Authority to the pool.

- 5.32 To be accepted as a new pilot for 2018/19 all parties must be designated as a pool to share business rates income. The 2018/19 pilots will see the continuation of the West Midlands Combined Authority Pool/Pilot in its current format. In addition the GBS pool will, subject to the agreement of current members, remain in place in 2018/19 regardless of whether Pilot applications are successful or not. However, Authorities cannot be members of two pools in relation to the creation of new pilots in 2018/19.
- 5.33 Authorities will therefore need to determine whether they would wish to be part of a Pilot or not. The pilot could either be in the form of the existing Staffordshire and Stoke on Trent Pool (however, acceptance of such a pilot is unlikely), a wider Staffordshire pool including all the Districts /Boroughs (two tier) or a more wider pool including Stoke on Trent City Council.

The Council is currently a Non Constituent Member (NCM) of the West Midlands Combined Authority and although discussions were held with DCLG to include NCMs in a potential Pilot, the approved pilot was limited to the Constituent (Metropolitan) Members .The WMCA Pilot has been re-affirmed as part of the Prospectus and the standing of NCMs in relation to joining such a pilot seems very unlikely.

In particular insufficient time now exists to prepare a Business Case and ascertain the risks involved in a pilot involving a Devolution Deal and without the benefit of a “no Detriment” clause.

- 5.34 If the Pilot Application is successful then the relevant Authorities would then cease to be a member of the current pools. The future of such pools would then be dependent upon what other members of the pool resolved in terms of pilot membership (DCLG have confirmed that all current pools can remain in place in 2018/19, however authorities cannot apply to be members of more than one pool). However, options to retain the Economic Development objective of the existing pools exist as detailed below.
- 5.35 Finally DCLG require, as part of the Expressions of Interest submission, that all interested Authorities specify what pool arrangements should apply in 2018/19 if the application to be a pilot was unsuccessful. As indicated above subject to the pool not being dissolved by existing members the option exists to remain with the GBS pool if the pilot application was not successful.

Impact on LEP and other partnership arrangements

- 5.36 The current Pooling arrangements applicable to Staffordshire Authorities are based upon retaining additional resources within Staffordshire, resources that would have otherwise be paid to Central Government. Each provides financial benefit to each growth authority and the wider economic development policy direction of each pool.

- 5.37a The Staffordshire & Stoke on Trent Pool includes a Central Investment Fund based upon an annual funding stream representing 40% of the retained levy. The Central Investment Fund is used to invest in projects to generate economic growth in Staffordshire and Stoke on Trent based upon investment strategies set in the context of the Stoke on Trent and Staffordshire Local Enterprise Partnership priorities.
- 5.37b The Greater Birmingham and Solihull Pool includes an allocation to the GBS LEP based upon an annual funding stream representing 40% of the avoided levy, with the proviso to allocate up to 60% subject to contingency requirements. The allocation is used to support the LEP's strategy for growth and consists of meeting central core costs together with initiatives in support of the Strategic Economic Plan (SEP) Business Plan.
- 5.38 A further separate allocation is made from Wyre Forest Council, a member of the Worcestershire Business Rates Pool, based upon a "contribution methodology" for non members. Similar arrangements have been put in place within GBS LEP for any Council who ceases to be a member of the pool but wishes to remain a member of the LEP and contribute to initiatives. The contribution methodology is as follows:
- £16,500 per annum contribution towards the Programme Delivery Director, Growth Hub and Inward Investment allocations for 2013/14;
 - A % contribution based upon the proportion of the Council's business rates baseline (as calculated by the Government) as a percentage of the combined business rates baseline of the GBS Pool Authorities:
- This equates to:
- 3.9% for Cannock Chase;
 - 6.4% for East Staffordshire;
 - 3.9% for Lichfield; and
 - 3.7% for Tamworth.
- 5.39 The pilot proposals would see each Council retaining the Levy Saving directly enabling a voluntary contribution to be paid to the relevant LEP and hence the current policy direction to be maintained.
- 5.40 A variety of options therefore exist to maintain the status quo these include:
- Re-designation of the existing pools as Economic Development Growth Pools to be funded by the equivalent amount of levy as now; or
 - Direct contributions to the relevant LEP based upon:
 - (i) 40% of retained levy (Current pool arrangements);
 - (ii) Fixed contribution;
 - (iii) Lump sum / % contribution; or
 - Determine alternative arrangements with the relevant Pool/LEP.

- 5.41 In considering such options it should be noted that as a result of the creation of the WMCA pilot the affected GBS Authority has adopted the retained levy option to ensure “No detriment” applied to the Pool.
- 5.42 In accordance with the prospectus any potential change in pooling arrangements needs to be communicated with affected pools. Informal discussions have taken place with the GBS Pool and a meeting of Finance Directors took place on the 16 September 2017. It was noted at the meeting that in addition to the two WMCA Pilot authorities the potential does exist for the current shire district members to apply to be a pilot as part of two tier applications. Similarly as highlighted in paragraph 5.33 insufficient time existed for an extension of the WMCA pilot. It was however agreed that the GBS pool would remain in existence enabling the Staffordshire /Worcestershire Authorities to remain as part of the pool if the pilot application was unsuccessful or if only part of current members were successful in becoming a pilot. In the event of the pilot applications being successful, arrangements would be put in place to maintain the voluntary contribution scenario as detailed above.
- 5.43 Informal discussions have taken place directly with the Director of the GBS LEP and the LEP would welcome any proposal that ensures the maintenance of existing policy arrangements and the ongoing commitment to the LEP. An application to be a Pilot authority would not impact upon this relationship.
- 5.44 In the event of a Pilot being established it would be necessary to amend the Governance arrangements of each pool to reflect the preferred option to support Economic Growth via pooling and partnership arrangements.

6. The proposal for a Staffordshire Pilot.

- 6.1 Section 3 of the Prospectus details the criteria for becoming a pilot. Although any authority or group of authorities can apply to become a pilot the selection criteria focuses on Proposed pooling arrangements which operate across a functional economic area (i.e. the county council(s) and all relevant district councils; groups of unitary authorities; or groups of county councils, all their districts and unitaries);
- i.
 - i. In addition supplementary assessments focus on the wide spread of geographical areas and rural areas;
 - ii. Two Tier Authorities;
 - iii. Financial sustainability; and
 - iv. How pooled growth will be used.

6.2 Three models are currently being developed in order that a Pilot could be created in Staffordshire.

Staffordshire & Stoke on Trent Pool (2012) - already in existence
Staffordshire County Council & Districts - two tier Authorities
Staffordshire County Council/ Districts and Stoke on Trent City Council
(Each Model includes the Fire and Rescue Service)

6.3 In accordance with the criteria it is believed that the wider entire Staffordshire geographical/regional area offers the best chance of success. In particular its unique and complex Economic Geography with links to the North, South and East is considered to be a key selling point against the selection criteria. The Staffordshire Economic area includes participation in two Local Enterprise Areas, two Business Rate Pools, Non Constituent Membership of a Combined Authority, the Midlands Engine and the Constellation Partnership (Northern Gateway). Partnership arrangements with each of these bodies, although complex, is fundamental to economic growth and hence a Staffordshire Pilot could test how Business Rates Retention could continue to operate either on a stand alone or integrated basis.

6.4 In relation to Criteria ii) a potential advantage of a Staffordshire Pilot is that it is nearly self sufficient based upon the grants/funding streams available to be financed solely from retained business rates. Self sufficiency effectively means that there is no payment to/or from Government (a Tariff or Top up is not effectively required).

6.5 **Appendix C** below shows the current Business Rates generated in Staffordshire and the amount currently passed back to Government. Although the Pilot would not consolidate any of the additional grants it can be seen that under existing arrangements the area could be self sufficient under the full 100% scheme.

6.6 In relation to Criteria iv) how pooled funds are to be used, a number of principles are proposed

- The pilot operates at no detriment to the existing 50% funding Scheme. In particular the contribution to wider Economic Development is protected;
- The pilot adopts local agreed tier splits whereby additional resources as generated through growth above baseline figures are effectively directed to redress the balance in relation to Social Care.

6.7 To this end it is proposed that the additional 50% risk and reward secured as part of Pilot Arrangements in relation to new growth is directed to the upper tier authorities and a locally agreed Tier Split arrangement is put in place.

6.8 Adopting the “no detriment” policy the use of a 59 % (County) /40% (District) and 1% (Fire) split would be adopted. Districts and Boroughs would remain as at present with additional reward (risk) accruing to the County Council and in the case of the Unitary Authority (Stoke on Trent City council). The latter receiving 99% of future growth as compared to 49% under the current system, with the County Council receiving 59% as compared to 9%.

6.9 In order to share the risk and apply the no detriment policy it is proposed that the Pool will be based upon a “No Loss“ basis for each Member.

“No loss” is determined to be that a Member will be no worse off:

- By being a Member of the Pool than they would have been if they had not been a Member of the Pool. Each Member will retain the income they would have received if they were not a member of the Pool;
- No Member will be worse off as compared with previous pool arrangements for Staffordshire and Stoke on Trent Business Rates Pool (2012) or Greater Birmingham and Solihull Business Rates Pool; and
- No Member will be worse off as a result of the increased retained % arising from the Pilot Scheme.

6.10 Each Authority will in addition receive a proportion representing its relevant tier split of additional resources generated by the creation of a pool for that Authority.

Each Authority will receive a minimum payment of £200k per annum for the duration of the pool enabling core services and in particular economic development and preventative social care initiatives to be protected.

7. Governance Arrangements

7.1 The Draft Governance arrangements for the proposed pool are attached as **Appendix D** in the form of a Memorandum of Understanding.

7.2 The existing Pooling Agreement(s) of the two pools have been used as a Template for the Memorandum of Understanding. The Template Model has been extended to reflect the additional resources retained under the proposed 100% pilot scheme.

7.3 The Governance arrangements reflect the Membership of the Pool; Duration; Governance & Voting Rights; Amounts to be pooled and Distribution methodology; Safety Net; Accountable Body and Termination.

8. Process and Timetable

- 8.1 The Outline Business Case for a Staffordshire Pool is to be considered by each of the potential eleven Pilot Authorities within Staffordshire.
- 8.2 Subject to the determination by each authority it is intended to submit an Expression of Interest (EOI) application based upon the following options in hierarchal order
- Staffordshire County Council/ Districts / Stoke on Trent City Council
Fire Authority (preferred option);
Staffordshire County Council/ Districts/Fire Authority; and
Existing Staffordshire Pool.
- 8.3 The EOI would need to confirm the Lead Authority . The Lead Authority would be supported by Staffordshire Chief Finance Officers Group and nominated policy officers in further discussions with DCLG.
- 8.4 The Deadline for Expressions of Interest is 27 October 2017 with successful applications being designated informally as part of the provisional Local Government Settlement in late November/Early December.
- 8.5 Potential successful pilots will be informed of the proposals in advance of the Draft Local Government Settlement enabling any implications of the Tariff/Top Up adjustments to be assessed and the final Memorandum of Understanding with Government agreed. The application can be withdrawn at this stage.
- 8.6 If the Council wishes to proceed with an EOI then Delegated Authority is required for the **Chief Operating Officer** and **Section 151 Officer** to submit the EOI and agree the necessary Governance arrangements in accordance with the principles as contained in the Memorandum of Understanding attached.

REPORT AUTHOR

If Members would like further information or clarification prior to the meeting please contact John Wheatley, Executive Director Corporate Services, tel. 709252 or Stefan Garner, Director of Finance, tel. 709242.

LIST OF BACKGROUND PAPERS

Department for Communities and Local Government (DCLG) - Invitation to Local Authorities in England to pilot 100% Business Rates Retention in 2018/19 and to pioneer new pooling and tier-split models, September 2017 (attached at **Appendix A**).

APPENDICES

Appendix A Pilot Prospectus

Appendix B Analysis of Rateable Values within Staffordshire

Appendix C Assessment of Financial Self sustainability under 100% Scheme

Appendix D Draft Memorandum of Understanding